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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,825	07/07/2004	Harald Hofmann	502902-183PUS	8491

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EXAMINER

GRAMLING, SEAN P

ART UNIT	PAPER NUMBER
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2875

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/500,825	Applicant(s) HOFMANN ET AL.	
	Examiner SEAN P. GRAMLING	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-15 and 17-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-15 and 17-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/4/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 30, 2009 has been entered. Claims 1 and 4 are amended. Claims 1-2, 4-15 and 17-27 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-2, 4-5, 8, 17-24 and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Calon et al* (US 2002/0118538) and further in view of *Anderson* (US 5,575,459).

4. Regarding claim 1, Calon teaches a lamp comprising at least one base (defined as the portion of the device surrounding housing 70) at a base end of the end of the lamp for connection to a luminaire-side lamp fitting; a plurality of LED elements 20, 20' spaced apart from the base and combined to form one module arranged on the base;

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and at least one non-LED lamp element 10 arranged on the base (see Figure 1 and paragraphs [0024]-[0026]). The plurality of LED elements in Calon are not arranged in a longitudinal direction from the base end to an opposing end of the lamp and are not aligned substantially in the longitudinal direction of the lamp. However, lamps with a plurality of LED elements arranged substantially in the longitudinal direction from a base end of the lamp to an opposing end of the lamp are well-known in the art and are specifically taught in Anderson (see Anderson, Figure 1 and column 2, lines 15-39). It would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange the plurality of LED elements 20, 20' in Calon in the longitudinal direction of the lamp from the base end to an opposing end of the lamp as taught by Anderson in order to provide a more uniform distribution of light through bulb element 60, and since it has been held that lacking any criticality, to shift location of prior art parts does not make the claimed invention patentable over that prior art (*In re Japikse*, 86 USPQ 70).

5. Regarding claim 2, the module (defined as the part holding LED's 20, 20' which is secured to the base) is separately formed element and fixed to the base of the lamp (see Figure 1).

6. Regarding claim 4, the LED elements 20, 20' in Calon are not aligned essentially along a longitudinal axis of the lamp as defined in claim 1. However, lamps with a plurality of LED elements arranged substantially in the longitudinal direction from a base end of the lamp to an opposing end of the lamp are well-known in the art and are specifically taught in Anderson (see Anderson, Figure 1 and column 2, lines 15-39). It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange the plurality of LED elements 20, 20' in *Calon* in the longitudinal direction of the lamp from the base end to an opposing end of the lamp as taught by Anderson in order to provide a more uniform distribution of light through bulb element 60, and since it has been held that lacking any criticality, to shift location of prior art parts does not make the claimed invention patentable over that prior art (*In re Japikse*, 86 USPQ 70).

7. Regarding claim 5, the LED elements 20, 20' in *Calon* are designed such that they can be dimmed and/or switched on or off (see paragraphs [0027]-[0029]).

8. Regarding claim 6, *Calon* does not specify that the module be essentially light-permeable. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a light-permeable module in order to allow the light generated by LED elements 20, 20' to permeate in all directions.

9. Regarding claim 7, *Calon* does not specify that the module be essentially reflective or light-scattering. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a reflective module in order to maximize the overall output of light generated by LED elements 20, 20'.

10. Regarding claim 8, a bulb element 60 in *Calon* is provided which at least partially envelops the module (see Figure 1 and paragraph [0025]).

11. Regarding claim 17, the lamp element 10 in *Calon* has a fluorescent layer 17 (see Figure 1 and paragraph [0025]).

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12. Regarding claim 18, the radiation emitted from the LED elements 20, 20' in Calon hits the fluorescent layer of the lamp element 10 (see Figure 1).

13. Regarding claim 19, multiple reflections take place between the fluorescent layer and the module in Calon (see Figure 1).

14. Regarding claim 20, the lamp element 10 in Calon is in the form of a compact fluorescent lamp or a high-pressure discharge lamp (see Figure 1 and paragraphs [0025] and [0028]).

15. Regarding claim 21, the lamp element 10 in Calon is designed such that it can be dimmed and/or switched on or off (see paragraphs [0027] and [0029]).

16. Regarding claim 22, the lamp in Calon further comprises a bulb element 60 which at least partially envelops both the module having the LED element 20, 20' and the at least one lamp element 10 of the second type (see Figure 1).

17. Regarding claim 23, the lamp 10 in Calon is essentially symmetrical with respect to a central plane of the lamp (see Figure 1).

18. Regarding claim 24, the module in Calon is arranged centrally on the base (see Figure 1).

19. Regarding claims 25 and 26, *Calon* does not specify the placement of two modules within lamp. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to duplicate the modules 12 within the lamp in order to increase the illumination of the lamp, and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

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20. Regarding claim 27, the LED elements 20, 20' in *Calon* are each provided on one side of the module (see Figure 1).

21. **Claims 9-15** are rejected under 35 U.S.C. 103 (a) as being unpatentable over *Calon* as applied to claim 8 above and further in view of *Chan* (US 2003/0021117).

22. Regarding claims 9-15, *Calon* discloses a bulb element 60 surrounding the LED's 20, 20' and the second lamp element 10, but does not specify that the bulb element be made of diffusive plastic material that contains fluorescent material capable of converting UV radiation emitted from the LED elements 20, 20' into visible light. However, *Chan* teaches a plastic bulb element 5 with diffusers made of fluorescent material 1 that would convert UV light components emitted from LED elements 2 into visible light (see Figure 2 and paragraphs [0023] and [0034]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the bulb element 10 in *Calon* with a plastic bulb element with fluorescent diffusers as taught by *Chan* in order to achieve additional white lighting through color blending and a uniform refraction of light through the bulb element in all directions for environmental lighting (see *Chan*, paragraph [0013]). In regards to claims 11 and 12, *Chan* does not specify that the bulb element 5 be formed through plastic-injection molding and does not specify that the fluorescent diffusers 1 be either admixed to the bulb or part of the plastic. However, the method of forming the bulb element is not germane to the issue of patentability of the lamp itself and therefore has not been given patentable weight.

Response to Arguments

23. Applicant's arguments filed July 30, 2009 with respect to the rejection of the claims in the previous Office Action have been considered but are moot in view of the new ground of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEAN P. GRAMLING whose telephone number is (571)272-9082. The examiner can normally be reached on MONDAY-FRIDAY 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sean P Gramling
Examiner
Art Unit 2875

/SPG/

/Sharon E. Payne/
Primary Examiner, Art Unit 2875